

## **8:31B RULE CHANGES**

HEALTH AND SENIOR SERVICES

HEALTH CARE FINANCING SYSTEMS

Hospital Financing

Hospital Cost Report Submission

Proposed Amendments: N.J.A.C. 8:31B-1.2, 3.16, 3.17 and 4.6

Authorized By: Clifton R. Lacy, M.D. Commissioner, Department of Health and Senior Services

Authority: N.J.S.A. 26:2H-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2002-202

Submit written comments by November 22,2002 to:

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The agency proposal follows:

### **Summary:**

The Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., requires hospitals to submit cost reports and financial statements to the Department of Health and Senior Services. The cost report forms include those data elements necessary for calculating Medicaid fee-for-service inpatient hospital payment rates as well as subsidies supported by the Health Care Subsidy Fund established by P.L. 1992, c. 160. Cost report data is also used to calculate the fees mandated by P.L. 1992, c. 160 that hospitals must remit to the Department to fund the Department's health planning activities and health initiatives.

Moreover, timely receipt of hospital financial data, including audited financial statements, assists the Department in protecting access to quality health services in the State.

Pursuant to the decision of the New Jersey Supreme Court on April 23, 2001 in the case of *Northwest Covenant Medical Center v. Fishman*, 167 N.J. 123, the rules governing the allocation of charity care subsidies require amendment in order to ensure that the annual process of allocating subsidies among hospitals provides unmistakable notice of its finality.

The proposed amendments clarify timeframes and other requirements related to Hospital Cost Report submission.

The definitions section reflects current practice related to Hospital Cost Report submissions and deletes obsolete language related to Standard Hospital Accounting and Rate Evaluation (S.H.A.R.E.) and Diagnostic Related Groups (D.R.G.) requirements related to the repealed hospital rate setting program, and adds the following:

“Audited current cost base” which distinguishes between the submitted cost base, the DHSS mathematical-accuracy checked “current cost base,” and the independently, on-site “audited current cost base”;

“Hospital” which clarifies that each separately licensed hospital must submit separate cost reports. Currently, hospitals have discretion whether to combine or separate divisions; and

“Reporting period” which clarifies the timing of cost report submissions for hospitals that do not operate on calendar years. For example, a hospital would submit its fiscal-year end June 30, 2002 cost report in June 2003.

The following terms have been deleted because they related to outmoded rate setting methodology: “base year,” equalization factor,” labor market area,” preliminary cost base,” utilization factor,” “labor market area,” preliminary cost base, “ ”utilization review committee,” “utilization review organization.”

“Current cost base” has been amended to reflect the actual practice of DHSS staff checking for omissions and mathematical errors.

Subchapter 3 contains financial monitoring and reporting rules. N.J.A.C. 8:31B-3.16 is amended to require that hospitals submit disagreements in writing when they receive notice of the Department’s intent to close the current cost data base. In the event of continued disagreement, an appeal process is provided. N.J.A.C. 8:31B-3.17 (a) is amended to update terminology.

Subchapter 4 governs financial elements and reporting. The proposed amendment to N.J.A.C. 8:31B-4.1 would require each separately licensed hospital to submit its own report, in order to assure that hospital-specific use of the cost-reports, such as the allocation of charity care subsidies, can be made when required and appropriate. The proposed amendment to N.J.A.C. 8:31B-4.6 would also require hospitals to provide advance notice of intent to change their reporting period, and provides concrete examples and deadlines for Audited Financial Statements.

This proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)1, because a 60-day comment period has been provided.

**Social Impact:** N.J.A.C. 8:31B allows the State to collect comprehensive and comparable data on hospital costs, revenue and services. The proposed amendments provide clarity regarding the submission of complete and accurate data which will be used by the State as well as private parties for a variety of purposes. While there are many uses for cost reports, two key functions they support are the calculation of Medicaid fee-for-service hospital rates and the allocation of charity care subsidies, both of which are beneficial to low income and/or uninsured persons in New Jersey. These amendments assure consistent treatment of all hospitals and thus enhance the fairness of the resulting Medicaid rates and charity care allocations.

**Economic Impact:** The proposed amendments will have no economic impact on hospitals as a group, or State of New Jersey taxpayers. Individual hospitals may realize an advantage or be placed at a disadvantage in terms of the allocation of the fixed amount of charity care subsidy.

Proposed N.J.A.C. 8:31B-3.16(c), requires that if a hospital changes its submission, DHSS will not change the database without the hospital's adherence to the deadlines for changes. If a hospital fails to notify the DHSS of changes to the database within 30 days of the DHSS notice of intent to close the database, the data stand unchanged. This deadline would affect a hospital to the extent that a hospital's changes in revenues, expenses, charity care subsidy, and payer mix data would have benefited its charity care allocation.

The proposed appeals and notice provisions impose fewer costs than the current practice of resolving cost report disputes through lawsuits.

**Federal Standards Statement:** Since the proposed amendments are not subject to any Federal requirements or standards, a Federal standards analysis is not applicable.

**Jobs Impact:** The proposed amendments are not expected to result in an increase or decrease in the number of jobs in New Jersey acute care hospitals or any other sector of the New Jersey economy.

**Agriculture Industry Impact:** The proposed amendments will not have an impact on the agriculture industry.

**Regulatory Flexibility Statement:** A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, record keeping or other compliance requirements on small businesses. The acute care general hospitals in New Jersey are the only businesses affected by the rules. Since all of these hospitals employ more than 100 full-time people, they are not considered small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

**Smart Growth Impact:** The proposed amendments shall not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**); deletions indicated in brackets [thus]:

#### 8:31B-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

**“Audited Current Cost Base” means the current cost base of the hospital, as adjusted as a result of audits conducted by the Department and/or acceptance by the Department of adjustments initiated by the hospital, in addition to the adjustments.**

[“Base year” means the year from which historical cost data are utilized.]

“Current Cost Base” means the actual costs and revenues of the hospital as identified in the Financial Elements in the [base] reporting period, **as adjusted by the Department for completeness and/or mathematical accuracy.**

. . .

[“Equalization Factor” means the factor that is calculated based on defined Labor Market Areas and multiplied by hospital costs to permit comparability between differing regional salary costs.]

. . .

**“Hospital” means a general hospital that is licensed in accordance with N.J.A.C. 8:43G or a special hospital eligible for Medicaid Disproportionate Share subsidies that is licensed in accordance with N.J.A.C. 8:43G.**

[“Labor Market Area” means counties and municipalities in the State that are grouped in accordance with similar labor costs.]

. . .

[“Preliminary Cost Base” means the estimated revenue a hospital may collect based on an approved schedule of rates which includes DRG rate amounts and indirect costs not included in the all-inclusive rate. Those indirect costs will either be the dollar amount specified or the estimated amount determined by a specific percentage adjustment to the rate.]

. . .

**“Reporting Period” means the most recent calendar or fiscal year prior to the June 30<sup>th</sup> submission deadline for the hospital’s current cost base reports.**

[“Utilization Review Committee” means a group of physicians in a designated hospital who review the health care provided to patients.]

Utilization Review Organization (URO) means a group of physicians within a designated geographical area who review the health care provided to patients in area hospitals.]

### SUBCHAPTER 3. FINANCIAL MONITORING AND REPORTING REGULATIONS

#### 8:31B-3.16 **Aggregate Current Cost Data Base**

[(a) A hospital's Current Cost Basis is defined as the actual costs and revenue as identified in the Financial Elements in the base reporting period as recognized by the New Jersey Department of Health and Senior Services.

(b) The Current Cost Base is also used as the basis for the health care (hospital) analysis and reporting system.

(c) Hospitals' actual cost reports cannot be substituted or rearranged once](a)

**Once** the Department has [determined that] **reviewed** the [actual cost] **hospital's** submission **in accordance with N.J.A.C. 8:31B-4 and determined it** is suitable for entry into [the] **an aggregate current cost** data base **including data for all hospitals,** [. The] **the** Department shall [provide 30 days' notice] **issue a notice** of its intent to close the **aggregate current cost** data base. **The notice to each hospital shall include a list of the completeness and/or mathematical adjustments the Department has made.**

**(b) A hospital which disagrees with the Department's completeness and/or mathematical adjustments shall submit, in writing, a complete list of its exceptions to the adjustments made by the Department within 30 days of the issuance of the notice of intent to close the aggregate current cost data**

base. If, upon review, the Commissioner determines that there were errors in the completeness and/or mathematical adjustments, a final list of adjustments will be provided to the hospital before the data is entered into the aggregate current cost data base.

(c) A hospital's current cost base submission cannot be substituted or rearranged after the aggregate current cost data base has been closed. Requests to rearrange or substitute current cost base data must be received in writing within 30 days of the issuance of the notice of intent to close the aggregate current cost data base. If, upon review, the Department determines that the revised submission is acceptable, the data entered into the aggregate current cost data base will be based on the revised submission. The Department will advise the hospital of its final list of adjustments.

(d) If a hospital takes exception to the final list of adjustments provided in accordance with (b) or (c) above, it may appeal the final list of adjustments. A notice by a hospital of an intent to appeal the final list of adjustments entered by the Department into the aggregate current cost data base must be submitted in writing to the Commissioner within 15 calendar days of issuance of the final list. Within 30 calendar days of issuance of the final list of adjustments, the hospital shall submit to the Commissioner two copies of its appeal, describing in detail the basis for its challenge to the

**final list of adjustments. Appeals shall not include new arrangements or substitutions of current cost submission data that was not previously submitted in accordance with (b) above. The appeal document shall list all factual and legal issues, including citation to applicable provisions of the hospital financing rules, and include all written documentation supporting each appeal issue. If the hospital fails to submit the required documentation within the prescribed timeframe, it shall have forfeited its right of appeal and the final list of adjustments to the hospital's current cost base submission shall be deemed to have been accepted by the hospital.**

**1. The Commissioner shall schedule a detailed review to be conducted by the Department with the hospital not more than 45 calendar days following receipt of the appeal document. If the hospital fails to appear on the established date, it shall have forfeited its right of appeal and the final list of adjustments to the hospital's current cost base submission shall be deemed to have been accepted by the hospital.**

**2. At the detailed review with the hospital, the Department representative shall indicate whether the appeal is supported by sufficient documentation to permit a resolution, and the hospital shall be permitted 10 calendar days after the date of the review in**



**which to submit additional documentation. The Commissioner shall give consideration only to documentation submitted pursuant to the deadlines set forth above in deciding upon any of the hospital's appeal issues.**

**3. Within 30 calendar days of the review with the hospital, the Commissioner will render detailed findings on the factual and legal issues concerning whether an adjustment to the final list of adjustments to the hospital's current cost base submission is warranted. The Commissioner's decision shall constitute the final agency adjudication.**

#### 8:31B-3.17 Financial elements reporting/audit adjustments

(a) The **Audited** [aggregate] **Aggregate** Current Cost Data Base is developed from financial elements reported to New Jersey State Department of Health and Senior Services and includes:

1-3 (No change.)

(b) -(c) (No change.)

#### Subchapter 4. Financial Elements and Reporting

##### 8:31B-4.1 Purpose

(a) (No change.)

(b) The Commissioner shall require each [general acute care] hospital to report cost, revenue and statistical information in accordance with the uniform

system described in this subchapter. **Separately licensed hospitals that are part of a hospital system shall submit separate reports.** This information is critical and is required to support the Department's public health activities, which include planning, licensing, **allocating charity care subsidies**, providing information to consumers and other interested parties, and monitoring hospital costs and revenues.

#### 8:31B-4.6 Reporting period

- (a) The basic reporting period is [the] 12 consecutive calendar months [utilized for Medicare], **which may be either on a calendar or fiscal year basis at the hospital's option. Hospitals shall provide the Department six months notice of an intent to change the reporting period before implementing any revised reporting period** [utilized for Medicare] **or the Department will use the hospital's most recent, previously closed cost report for the purposes listed in N.J.A.C. 8:31B-4.1(b).**
- (b) New hospitals beginning operations on any day other than January 1 must select an initial reporting period beginning on the first day of operation, through the last month preceding the **end of the** hospital's fiscal year. For example, a hospital using a **calendar year reporting period and** beginning operations August 15, [1979] **2001** would have an initial reporting period running from August 15, [1979] **2001** through December 31, [1979] **2001** [if it were on a calendar year]. Its next reporting period would then be January 1 to December 31.

(c) Each [calendar year's Acute Hospital Cost Reports as defined in N.J.A.C. 8:31B-4.131 are] **hospital's Current Cost Base submission for the most recent reporting period is due on the following** June 30 [of the following year]. Each [year's] **hospital's most recent Annual** Audited Financial Statement is due on the **following** June 30<sup>th</sup> [of the following year.] Failure to meet these time frames will result in penalties as stated in N.J.A.C. 8:31B-3.3.